

STEAMER TABLE.

From San Francisco:	
Mongolia	Nov. 22
Sierra	Nov. 29
China	Dec. 2
For San Francisco:	
Sonoma	Nov. 28
Manchuria	Nov. 28
From Vancouver:	
Aomori	Dec. 16
For Vancouver:	
Mowara	Dec. 13

THERE ARE MILLIONS OF FISH IN THE SEA---BUT NONE EVER WALK ASHORE---THEY MUST BE CAUGHT

EVENING BULLETIN

3:30 O'CLOCK

BULLETIN ADS CATCH TRADE

EDITION

To the local advertiser of any degree and description the daily newspaper may be set down, in ten cases out of ten, as being his chief publicity prop. It covers his field, reaches the people he wishes to reach, and through it he can tell his story more economically than through any other medium.

In Honolulu nearly everybody reads the Bulletin -- the paper that turns readers into buyers. 11 11 11 11

VOL. XVII No. 3239

HONOLULU, TERRITORY OF HAWAII, FRIDAY, NOVEMBER 24, 1905

PRICE 5 CENTS

COUNTY

Can Enforce Its ORDINANCES

The Supreme Court this afternoon delivered its decision in the mandamus case against Police Magistrate Whitney to compel him to issue a warrant for the arrest of five persons, charged with violating the gambling ordinance. The decision holds that Whitney should be required to take jurisdiction.

The syllabus is in part as follows: The Legislature may delegate to County Board of Supervisors power to make police ordinances of a local nature, such as ordinances relating to gambling.

Under an act authorizing county Boards of Supervisors to regulate by ordinance: "local police" and other regulations, "and to fix a penalty for the violation of such ordinances," held: "regulate" should be construed as "make"; the act authorizes county Boards of Supervisors but not the people of a county to make ordinances against gambling, but not to impose imprisonment as a penalty, nor to make a violation a misdemeanor, nor to confer jurisdiction on district magistrates.

An ordinance need not contain an enforcing clause; it may be valid if in fact made by the Board of Supervisors though purporting in its enacting clause to have been made by the people of a county.

Prosecutions for violations of county ordinances are criminal rather than civil in their nature, as shown by various provisions of the county act.

In the absence of statutory provision as to what courts shall have jurisdiction of offenses against county ordinances, the appropriate Territorial courts have jurisdiction according to the general laws defining their jurisdiction over offenses against the Territorial laws. The provision of the county act that the County Attorney shall be the public prosecutor for the county and attend the Circuit Court in and for the county and conduct all prosecutions therein for offenses against the laws of the Territory and the ordinances of the Board of Supervisors of the county, is held, especially in view of other provisions, not to give Circuit Courts exclusive jurisdiction of offenses against ordinances.

Prosecutions for offenses against county ordinances should be in the name of the Territory.

The district magistrate having declined to take jurisdiction of a complaint for a violation of a county ordinance, and being held to have such jurisdiction, is required to take jurisdiction, but is not required to act in a particular manner.

This is an application for a writ of mandamus to compel the respondent as district magistrate of Honolulu, one of the judicial districts within the county of Oahu, to issue a warrant for the arrest of each of five named persons upon a sworn complaint charging them with a violation of an ordinance made by the Board of Supervisors of the county of Oahu prohibiting the exposure of gambling implements in a room barred so as to make it difficult of access when three or more persons are present, or the visiting of such a room so barred under such circumstances, and to take jurisdiction of such charge,--the said respondent having refused to issue such warrant or take such jurisdiction solely on the

ground that he had no jurisdiction over the subject matter of any ordinance made by said Board of Supervisors.

The question that presents itself first is whether it is in the power of the Legislature to authorize county Boards of Supervisors to make ordinances of the kind in question. There can be no doubt that such authority may be conferred upon cities and other municipal corporations proper. It is conceded for the purposes of this case by counsel for the respondent that such authority may be delegated to counties also, which are generally classed as quasi municipal corporations. This, however, is by no means clear.

On the whole we are of the opinion that the Legislature could delegate to the county Boards of Supervisors power to make ordinances relating to certain matters of local concern.

Power has been conferred expressly by the county act (Sec. 62, Subd. 5) upon the Board of Supervisors of each county.

"5. To regulate by ordinance within the limits of the county, all local police, sanitary and other regulations not in conflict with the general laws of the Territory, or rules and regulations of the Territorial Board of Health, and fix a penalty for the violation of such ordinances."

This is sufficient authority for the enactment of an ordinance of the kind in question. Gambling is one of the subjects as to which power to make ordinances may be delegated.

Moreover, we do not understand that this statutory provision authorizes the Board of Supervisors to impose imprisonment as a penalty, although as to that we are not required to decide, for the ordinance, which imposes a fine not exceeding \$500 or imprisonment for not more than six months or both, may stand even if the part relating to imprisonment is void. Of course the penalty, whatever its character, should be reasonable in amount, and it is usual for statutes to specify both the character and the maximum amount that may be prescribed by the ordinance. This statute does not specify either. It is generally held that penalties, such as imprisonment and forfeiture, other than pecuniary cannot be prescribed in the absence of express statutory authority.

The enacting clause of the ordinance also is invalid. It reads: "The people of the county of Oahu do ordain as follows." The power to make ordinances is conferred upon the Board of Supervisors and not upon the people of the county. But this does not invalidate the ordinance, for it did not have to contain any enacting clause, and the petition and return show that it was in fact made by the Board of Supervisors.

Apparently it was the intention to prosecute the case before the district magistrate in the name of the county. In our opinion it should be prosecuted in the name of the Territory.

Under all the circumstances shown by the petition and return, which need not be set out in full, we are of the opinion that the District Magistrate should not be required to take any particular action, but that he should be required to take jurisdiction of the case and, if necessary, a writ may issue requiring him to do so.

CHANGED HIS NAME ON PAY ROLL TO AVOID A D'BT

A certain County employee who has had his salary garnished since the County came into existence recently hit on a scheme to avoid having anything taken out of his wage. He had always appeared on the pay roll at the road department by his middle name.

Last pay day he was entered on the pay list by his last name and marched to the Auditor's office, smiling, to draw full pay.

Now Auditor James Bicknell is an expert at remembering faces and he saw something familiar in this man's countenance, something that reminded him of garnishments.

"Is this your name?" he asked. "Sure!" said the laborer.

"Well, you call in the morning," remarked Bicknell.

Within a little while the matter was under investigation and it may, before the business ends, go hard with the man who changed the name on the pay roll from the usual cognomen, be it foreman, luna or clerk.

The pay rolls present some peculiarities in names, some men going merely by their first names, Jack, John, Bill, etc.

Recently, to avoid error, it was declared that the full names should be written out. This made a pretty to-do, for some of the Hawaiians had five or six names, with seven vowels or so to each consonant.

It is of course possible that the change in the name of the man who was garnished, above referred to, was without wrong intent and in compliance with the order to write out full names, but, nevertheless, the matter is under investigation.

TALK OF CALENDAR BEING CONGESTED IS EXAGGERATED

"The talk about the congested calendar in the Circuit Court is much exaggerated," said Attorney A. G. M. Robertson to a Bulletin reporter this afternoon. "There is no congestion in the civil calendar. While there has not been a great many trials of civil cases during the present term, a large number of cases has been disposed of by dismissal or settlement out of court."

"There will be fewer cases on the calendar next term than there were at the opening of this term. The only congestion is in the criminal calendar, and that could be cleared up in short order if the Attorney General's Department would go at it in earnest."

"The suggestion of Mr. Bailon that it would be sufficient if two of the judges attended regularly to jury trials while the third should confine his attention to chambers matters, probate and equity and possibly jury waived term cases, is one that I advanced some time ago. All the business of the court could be conveniently and effectively handled in that way, the expense of the third jury would be obviated, and chambers matters would have proper attention."

"I understand that the judges, or some of them, are proposing some radical and extreme rules in connection with the conduct of trials at the next term. My advice is to go slow. We have rules enough now. The matter can be worked out satisfactorily without going to extremes."

Hartwell also writes an opinion, concurring with that of the other two judges.

Per. S. S. SONOMA NOVEMBER 21st.

The first consignment of individual bunches of fancy bananas will be shipped to the Coast. Order a bunch at the Wells-Fargo office, King St.

INDEMNITY IF QUARANTINED

Only one of the special features in THE STANDARD LIFE AND ACCIDENT INSURANCE COMPANY'S policy.

If the insured shall be officially involuntarily quarantined by a Board of Health in any house or on any steamship on which the insured is a passenger and thereby be prevented from performing duties pertaining to his occupation the Company will pay him the weekly indemnity for total disability for not exceeding ten weeks during insurant's confinement in quarantine.

Hawaiian Trust Co., Ltd., Fort Street, Honolulu

Ashford Is After Kepoikai

C. W. Ashford, attorney for plaintiff in the case of Mose Meheula vs. Pioneer Mill Co., involving the possession of a certain piece of land at Lahaina, this afternoon filed a motion to dissolve the restraining order made by Judge Kepoikai, preventing Clerk Hart of the Maui Circuit Court and Meheula from taking out or issuing a writ of possession. This is another phase of the attempt to prevent an appeal to Washington that may have some sensational results. The Supreme Court appears to have done all in its power to prevent the appeal being taken.

The grounds on which the motion is based are as follows:

1. That the bill of complaint upon and by virtue of which said order was issued, discloses no equity in favor of complainant and against said defendant, or either of them,--and discloses no equitable cause or justification for the issuance, or for the continuing in force of said restraining order.

2. That said bill of complaint was not and is not verified as provided by law, and by the practice pertaining to courts of equity, nor in such manner as to entitle said complainant to the issuance of said "Order to Show Cause and Restraining Order."

3. That, prior to, or (and) at the time of the signing and issuing of said restraining order, said bill of complaint had not been filed by or with

(Continued on Page 4.)

Prohibition Writ Asked For Against De Bolt

Attorney C. W. Ashford today took a new step in his defense of the act of the Session Laws of 1905, which has been called after him the "Ashford section," which provides that no civil jury cases after sixty days of the term has elapsed by consent. The respondent, it is alleged, now threaten and intend to proceed with the trial of said case on November 27, and the petitioner believes that they will do so unless prohibited by a writ from the Supreme Court.

The petitioner therefore prays that a writ of prohibition issue directed to Mary Buckle and Judge De Bolt, prohibiting them from taking further steps in the matter of the trial of the case or to enter any order or judgment therein, excepting an order continuing the case for the term, until further order is made by the Supreme Court.

The funeral of David Kaapa, the late detective, took place at 3 o'clock this afternoon from his sister's residence on Vineyard street. Eight policemen acted as pall bearers. After services at the house by Rev. Lono of Kaunakapili church, the body was taken to its final resting place in the Kawaiaho cemetery. The officers as pall bearers at the funeral of their dead comrade all wore full uniform. Lieutenant Aea was in command. The pall bearers were M. L. Needham, John Thomas, James Kuliie, D. P. Kalena, M. Nawa, D. B. Haukea, E. W. Kawalea, and John Wallace.

The petitioner shows that the September term of the Circuit Court on November 9 more than sixty days had elapsed and it was not competent for the Circuit Court to set for trial any civil action requiring a jury, or proceed with such a trial, unless by the consent of all parties concerned in such suit, in the form of a stipulation. He shows that the defendant had not given any such consent.

It is further shown that on November 9 Judge De Bolt, in the absence of the defendant and his attorney, called the case and set it for trial, against the

wishes of the petitioner, and an order was entered setting the case for trial on November 27. On November 13 the defendant filed his written objection, citing the statute relating to the Act of 1905 preventing the trial of civil jury cases after sixty days of the term has elapsed by consent. The respondent, it is alleged, now threaten and intend to proceed with the trial of said case on November 27, and the petitioner believes that they will do so unless prohibited by a writ from the Supreme Court.

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Says Labor Discussion Was Inane

Nothing is being given out at present in relation to the deliberations of the planters in executive session the other day, on the labor proposition.

"Indeed," said one who was present at the secret session, "there is nothing of any importance to give out. You would be surprised at the inanity of those very labor deliberations."

It may have been because of the "inanity," ascribed by the sugar man above quoted, that the Hawaii planters got together on their own account this morning and talked over the labor question.

"Said a plantation manager of this island today: 'I favor giving out these deliberations; it would be better for all concerned, in the long run. But then, come to think of it, you see, if we had only our own people to give out the discussion to, it would be all right, but before a thing's decided--to go and spread information of what we are trying to do, broadcast, would not be well; it would get among the Japanese and do no good. I guess the silent policy is the best.'"

All that has been accomplished so far is that the planters have decided to go on with the labor question.

(Continued on Page 8.)

BALFOUR APPEALS

LONDON, England, Nov. 24--The Balfour Cabinet has decided not to resign, but to dissolve Parliament and appeal to the people in a general election.

CONVICTS DYNAMITE GATE AND ESCAPE. JEFFERSON CITY, Mo., Nov. 24--Convicts of the local penitentiary in an attempt to escape today exploded dynamite under the gates. A deputy warden was mortally wounded in the explosion. Four of the convicts reached the street, but were promptly pursued and three killed. One man made good his escape.

NEW MEXICO'S GOVERNOR. WASHINGTON, D. C., Nov. 24--Herbert J. Hagerman has been appointed Governor of New Mexico.

BRAINED HIS SISTER. SAN FRANCISCO, Cal., Nov. 24--Louis Depauli killed his sister-in-law, Catherine Depauli, today, braining the woman with a chair. Depauli was possessed of a mania that his sister had an evil eye and influenced the children.

SAN FRANCISCO, Cal., Nov. 23--SUGAR: 88 analysis Beets, 3s 5 1/4d. or \$75.20 a ton. Previous quotation 8s 4 1/2d. Parity for Centrifugals, 3 7/8 cents.

ART LOAN EXHIBIT SERVES A FEAST

In spite of stormy weather a host of good folks whose epicurean faculties can tell anything unusually artistic in the way of a feast from afar presented themselves at the Art Loan Exhibit supper on the lower floor of the Lewers & Cooke building on King street last evening. They would never have forgiven themselves had they stayed away, providing, of course, they could know what they missed thereby.

Even the feasting sugar kings up in the Young building, celebrating a prosperous year, were seated at no more sumptuous repast, and those who dined at the Art Loan Exhibition were served attentively by charming young ladies, so beauty crowned the feast, and then music did its share to fascinate. Truly the repast was luxurious and artistic in the extreme, with the daintiest of culinary delights, music as an accompaniment and gentle femininity to see that none lacked for attention.

Flags of all nations ornamented the great space containing a multitude of tables, decked with the snowiest of linen, and a ravishing array of tropical flowers adorned each board, so each today by Judge Whitney.

Three drunks were fined \$3 and costs each today by Judge Whitney.

Malrao Ropes, a Portuguese, was arrested on a warrant today issued at the instance of his wife, Clara Ropes, who charges her husband with assault and battery. It is nothing more than a family quarrel and what cannot be settled at home will be settled in the Police Court.

(Continued on Page 4.)

Most everyone buys lace curtains at this season of the year, as this is the time that people summering on the Coast return to their homes in Hawaii.

J. HOPP & CO., Furniture Dealers in the Young Building, have just added a nice line of LACE CURTAINS and DRAPERIES to their other lines and are showing a stock of all new goods, including some natty things in the way of Lace Curtain Novelties,--Irish Point, Arabian, and Madras.

J. HOPP & CO.

Wonderful New Creations

In artistic shoemaking. Just opened and ready for all those who crave for Comfort. The softest and easiest shoes ever made for men. Easy to Clean; shine lasts longer than on any other shoe. 1st. A striking White Buckskin oxford, leather welt and rubber sole, cap toe. Price \$4.50. 2nd. A Beautiful Hylee No. 63 Russia calf oxford, leather welt, rubber soles, cap toe. Price \$3.50. 3rd. A New and Stylish canvas ox, Leather welt; Rubber Soles, Cap toe. Price \$3.00. Nobby lasts, perfect fitting qualities and long wearers.

ISLAND ORDERS GIVEN SPECIAL ATTENTION.

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Best Portable Typewriter Is The BLICKENDERFER

For travelers and others who need a typewriter that can be carried with them, there is nothing to equal the Blickenderfer.

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Ready-to-wear, but impressive; absolutely irreproachable in fabrics, style, fit and finish. Made for critical men for particular occasions.

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